

House File 2270 - Introduced

HOUSE FILE 2270

BY HUNTER

A BILL FOR

1 An Act providing for the creation of a medical marijuana
2 Act including the creation of nonprofit dispensaries, and
3 providing for civil and criminal penalties and fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 5, Code Supplement
2 2011, is amended by adding the following new unnumbered
3 paragraph:

4 NEW UNNUMBERED PARAGRAPH. A person may knowingly or
5 intentionally possess marijuana if the possession is in
6 accordance with the provisions of chapter 124D.

7 Sec. 2. NEW SECTION. 124D.1 Citation.

8 This chapter shall be known and may be cited as the "*Medical*
9 *Marijuana Act*".

10 Sec. 3. NEW SECTION. 124D.2 Definitions.

11 As used in this chapter, the following definitions shall
12 apply:

13 1. "*Cardholder*" means a qualifying patient, a primary
14 caregiver, or a principal officer, board member, employee,
15 or agent of a nonprofit dispensary who has been issued and
16 possesses a valid registry identification card.

17 2. "*Debilitating medical condition*" means any of the
18 following:

19 a. Cancer, glaucoma, positive status for human
20 immunodeficiency virus, acquired immune deficiency syndrome,
21 hepatitis C, amyotrophic lateral sclerosis, Crohn's disease,
22 agitation of Alzheimer's disease, nail patella, or the
23 treatment of any of these conditions.

24 b. A chronic or debilitating disease or medical condition
25 or its treatment that produces intractable pain, which is pain
26 that has not responded to ordinary medical or surgical measures
27 for more than six months.

28 c. A chronic or debilitating disease or medical condition or
29 its treatment that produces any of the following:

30 (1) Cachexia or wasting syndrome.

31 (2) Severe nausea.

32 (3) Seizures, including but not limited to those
33 characteristic of epilepsy.

34 (4) Severe and persistent muscle spasms, including but not
35 limited to those characteristic of multiple sclerosis.

1 *d.* Any other medical condition or its treatment approved by
2 the department.

3 3. "*Department*" means the department of public health.

4 4. "*Enclosed, locked facility*" means a closet, room,
5 greenhouse, or other enclosed area equipped with locks or other
6 security devices that permit access only by a cardholder.

7 5. "*Felony drug offense*" means a violation of a state or
8 federal controlled substance law that was classified as a
9 felony in the jurisdiction where the person was convicted.

10 "*Felony drug offense*" does not include any of the following:

11 *a.* An offense for which the sentence, including any term of
12 probation, incarceration, or supervised release, was completed
13 ten or more years earlier.

14 *b.* An offense that involved conduct that would have been
15 permitted under this chapter.

16 6. "*Marijuana*" means the same as defined in section 124.101,
17 subsection 19.

18 7. "*Medical use*" means the acquisition, possession,
19 cultivation, manufacture, use, delivery, transfer, or
20 transportation of marijuana or paraphernalia relating to the
21 administration of marijuana to treat or alleviate a registered
22 qualifying patient's debilitating medical condition or symptoms
23 associated with the patient's debilitating medical condition.

24 8. "*Nonprofit dispensary*" means a not-for-profit entity
25 registered under section 124D.4 that acquires, possesses,
26 cultivates, manufactures, delivers, transfers, transports,
27 sells, supplies, or dispenses marijuana or related supplies and
28 educational materials to cardholders. A nonprofit dispensary
29 is a primary caregiver.

30 9. "*Physician*" means an individual licensed under the
31 provisions of chapter 148 to practice medicine and surgery or
32 osteopathic medicine and surgery.

33 10. "*Primary caregiver*" means a person twenty-one years
34 of age or older who has agreed to assist with a qualifying
35 patient's medical use of marijuana and who has never been

1 convicted of a felony drug offense, and includes a nonprofit
2 dispensary. Unless the primary caregiver is a nonprofit
3 dispensary, the primary caregiver shall not assist more than
4 five qualifying patients with their medical use of marijuana.

5 11. *"Qualifying patient"* means a person who has been
6 diagnosed by a physician with a debilitating medical condition.

7 12. *"Registered nonprofit dispensary"* means a nonprofit
8 dispensary registered by the department pursuant to section
9 124D.4.

10 13. *"Registry identification card"* means a document issued
11 by the department that identifies a person as a registered
12 qualifying patient, registered primary caregiver, or a
13 principal officer, board member, employee, or agent of a
14 nonprofit dispensary.

15 14. *"Unusable marijuana"* means marijuana seeds, stalks,
16 seedlings, and unusable roots. *"Seedling"* means a marijuana
17 plant without flowers which is less than twelve inches in
18 height and less than twelve inches in diameter.

19 15. *"Usable marijuana"* means the dried leaves and flowers of
20 the marijuana plant, and any mixture or preparation thereof,
21 but does not include the seeds, stalks, and roots of the
22 plant and does not include the weight of other ingredients in
23 marijuana prepared for consumption as food.

24 16. *"Visiting qualifying patient"* means a patient with a
25 debilitating medical condition who is not a resident of this
26 state or who has been a resident of this state for less than
27 thirty days.

28 17. *"Written certification"* means a document signed by
29 a physician, stating that in the physician's professional
30 opinion the patient is likely to receive therapeutic or
31 palliative benefit from the medical use of marijuana to treat
32 or alleviate the patient's debilitating medical condition or
33 symptoms associated with the debilitating medical condition.
34 A written certification shall be made only in the course of a
35 bona fide physician-patient relationship after the physician

1 has completed a full assessment of the qualifying patient's
2 medical history. The written certification shall specify the
3 qualifying patient's debilitating medical condition.

4 Sec. 4. NEW SECTION. 124D.3 Medical use of marijuana.

5 1. A qualifying patient who has been issued and possesses a
6 registry identification card shall not be subject to arrest,
7 prosecution, or penalty in any manner, or denied any right
8 or privilege, including but not limited to a civil penalty
9 or disciplinary action by a business or occupational or
10 professional licensing board or bureau, for the medical use
11 of marijuana in accordance with this chapter, provided the
12 marijuana possessed by the qualifying patient:

13 a. Is not more than two and one-half ounces of usable
14 marijuana.

15 b. If the qualifying patient has not designated a primary
16 caregiver to cultivate marijuana for the qualifying patient,
17 does not exceed six marijuana plants, which must be kept in
18 an enclosed, locked facility unless the plants are being
19 transported because the qualifying patient is moving or the
20 plants are being transported to the qualifying patient's
21 property.

22 2. A primary caregiver other than a nonprofit dispensary who
23 has been issued and possesses a registry identification card
24 shall not be subject to arrest, prosecution, or penalty in any
25 manner, or denied any right or privilege, including but not
26 limited to a civil penalty or disciplinary action by a business
27 or occupational or professional licensing board or bureau, for
28 assisting a qualifying patient to whom the primary caregiver is
29 connected through the department's registration process with
30 the medical use of marijuana in accordance with this chapter,
31 provided that the marijuana possessed by the primary caregiver:

32 a. Is not more than two and one-half ounces of usable
33 marijuana for each qualifying patient to whom the primary
34 caregiver is connected through the department's registration
35 process.

1 *b.* For each qualifying patient who has designated the
2 primary caregiver to cultivate marijuana for the qualifying
3 patient, does not exceed six marijuana plants, which must be
4 kept in an enclosed, locked facility unless the plants are
5 being transported because the primary caregiver is moving.

6 3. Any incidental amount of seeds, stalks, and unusable
7 roots shall be allowed and shall not be included in the amounts
8 specified in subsections 1 and 2.

9 4. *a.* There shall be a presumption that a qualifying
10 patient or primary caregiver is engaged in the medical use of
11 marijuana pursuant to this chapter if the qualifying patient or
12 primary caregiver does both of the following:

13 (1) Possesses a registry identification card.

14 (2) Possesses an amount of marijuana that does not exceed
15 the amount allowed under this chapter.

16 *b.* The presumption may be rebutted by evidence that
17 conduct related to marijuana use or possession was not for the
18 purpose of treating or alleviating the qualifying patient's
19 debilitating medical condition or symptoms associated with
20 the debilitating medical condition, in accordance with this
21 chapter.

22 5. A cardholder shall not be subject to arrest, prosecution,
23 or penalty in any manner, or denied any right or privilege,
24 including but not limited to civil penalty or disciplinary
25 action by a business or occupational or professional licensing
26 board or bureau, for giving an amount of marijuana the person
27 is allowed to possess under subsection 1 or 2 to a cardholder
28 for a registered qualifying patient's medical use where nothing
29 of value is transferred in return, or to offer to do the same.

30 6. A school, employer, or landlord shall not refuse to
31 enroll, employ, or lease to, or otherwise penalize, a person
32 solely on the basis of the person's status as a registered
33 qualifying patient or a registered primary caregiver, unless
34 failing to do so would put the school, employer, or landlord
35 in violation of federal law or cause the school, employer, or

1 landlord to lose a federal contract or funding.

2 7. A person shall not be denied custody or visitation of
3 a minor for acting in accordance with this chapter, unless
4 the person's behavior is such that it creates an unreasonable
5 danger to the minor that can be clearly articulated and
6 substantiated.

7 8. A registered primary caregiver may receive compensation
8 for costs associated with assisting a registered qualifying
9 patient's medical use of marijuana, provided that the
10 registered primary caregiver is connected to the registered
11 qualifying patient through the department's registration
12 process. Any such compensation shall not constitute the sale
13 of controlled substances.

14 9. A physician shall not be subject to arrest, prosecution,
15 or penalty in any manner, or denied any right or privilege,
16 including but not limited to a civil penalty or disciplinary
17 action by the board of medicine or by any other business or
18 occupational or professional licensing board or bureau, solely
19 for providing written certifications or for otherwise stating
20 that, in the physician's professional opinion, a patient is
21 likely to receive therapeutic benefit from the medical use of
22 marijuana to treat or alleviate the patient's debilitating
23 medical condition or symptoms associated with the debilitating
24 medical condition, provided that nothing shall prevent a
25 professional licensing board from sanctioning a physician for
26 failing to properly evaluate a patient's medical condition or
27 otherwise violating the standard of care for evaluating medical
28 conditions.

29 10. A person shall not be subject to arrest, prosecution,
30 or penalty in any manner, or denied any right or privilege,
31 including but not limited to a civil penalty or disciplinary
32 action by a business or occupational or professional licensing
33 board or bureau, for providing a registered qualifying patient
34 or a registered primary caregiver with marijuana paraphernalia
35 for purposes of a qualifying patient's medical use of

1 marijuana.

2 11. Any marijuana, marijuana paraphernalia, licit property,
3 or interest in licit property that is possessed, owned, or used
4 in connection with the medical use of marijuana, as allowed
5 under this chapter, or property incidental to such use, shall
6 not be seized or forfeited.

7 12. A person shall not be subject to arrest, prosecution,
8 or penalty in any manner, or denied any right or privilege,
9 including but not limited to a civil penalty or disciplinary
10 action by a business or occupational or professional licensing
11 board or bureau, simply for being in the presence or vicinity
12 of the medical use of marijuana as allowed under this chapter,
13 or for assisting a registered qualifying patient with using or
14 administering marijuana.

15 13. A registry identification card, or its equivalent, that
16 is issued under the laws of another state, district, territory,
17 commonwealth, or insular possession of the United States that
18 allows the medical use of marijuana by a visiting qualifying
19 patient, shall have the same force and effect as a registry
20 identification card issued by the department for purposes of
21 this chapter.

22 Sec. 5. NEW SECTION. 124D.4 Nonprofit dispensaries.

23 1. The department shall register and issue a registration
24 certificate to a nonprofit dispensary within thirty days of
25 receiving an application for registration of a nonprofit
26 dispensary if the prospective nonprofit dispensary provided all
27 of the following, in accordance with the department's rules:

28 a. An application fee of five thousand dollars.

29 b. The legal name of the nonprofit dispensary.

30 c. The physical address of the nonprofit dispensary and
31 the physical address of one additional location, if any, where
32 marijuana will be cultivated.

33 d. The name, address, and date of birth of each principal
34 officer and board member of the nonprofit dispensary.

35 e. The name, address, and date of birth of any person who is

1 an agent of or employed by the nonprofit dispensary.

2 2. The department shall track the number of registered
3 qualifying patients who designate a nonprofit dispensary as
4 a primary caregiver and issue to each nonprofit dispensary
5 a written statement of the number of qualifying patients
6 who have designated the nonprofit dispensary to cultivate
7 marijuana for them. This statement shall be updated each time
8 a registered qualifying patient newly designates the nonprofit
9 dispensary or ceases to designate the nonprofit dispensary and
10 may be transmitted electronically if the department's rules so
11 provide. The department may provide by rule that the updated
12 written statements may not be issued more frequently than once
13 each week.

14 3. Except as provided in subsection 4, the department shall
15 issue each principal officer, board member, agent, or employee
16 of a nonprofit dispensary a registry identification card within
17 ten days of receipt of the person's name, address, date of
18 birth, and a fee in an amount established by the department.
19 Each registry identification card shall specify that the
20 cardholder is a principal officer, board member, agent, or
21 employee of a nonprofit dispensary and shall contain all of the
22 following information:

23 a. The name, address, and date of birth of the principal
24 officer, board member, agent, or employee.

25 b. The legal name of the nonprofit dispensary with which
26 the principal officer, board member, agent, or employee is
27 affiliated.

28 c. A random identification number that is unique to the
29 cardholder.

30 d. The date of issuance and expiration date of the registry
31 identification card.

32 e. A photograph, if the department requires inclusion of a
33 photograph by rule.

34 4. The department shall not issue a registry identification
35 card to any principal officer, board member, agent, or employee

1 of a nonprofit dispensary who has been convicted of a felony
2 drug offense. The department may conduct a background check
3 of each principal officer, board member, agent, or employee
4 in order to carry out this subsection. The department shall
5 notify the nonprofit dispensary in writing of the reason for
6 denying the registry identification card.

7 5. *a.* A nonprofit dispensary registration certificate and
8 the registry identification card for each principal officer,
9 board member, agent, or employee shall expire one year after
10 the date of issuance. The department shall issue a renewal
11 nonprofit dispensary registration certificate or renewal
12 registry identification card within ten days to any person who
13 complies with the requirements in subsection 3.

14 *b.* A registry identification card of a principal officer,
15 board member, agent, or employee shall expire ten days after
16 notification by a nonprofit dispensary that such person ceases
17 to work at the nonprofit dispensary.

18 6. A nonprofit dispensary is subject to reasonable
19 inspection by the department. The department shall give
20 reasonable notice of an inspection.

21 7. *a.* A nonprofit dispensary shall be operated on a
22 not-for-profit basis for the mutual benefit of its members
23 and patrons. The bylaws of a nonprofit dispensary and its
24 contracts with patrons shall contain such provisions relative
25 to the disposition of revenues and receipts as may be necessary
26 and appropriate to establish and maintain its not-for-profit
27 status. However, a nonprofit dispensary need not be recognized
28 as tax-exempt by the federal internal revenue service and is
29 not required to incorporate pursuant to chapter 504.

30 *b.* A nonprofit dispensary shall notify the department within
31 ten days of when a principal officer, board member, agent, or
32 employee ceases to work at the nonprofit dispensary.

33 *c.* A nonprofit dispensary shall notify the department in
34 writing of the name, address, and date of birth of any new
35 principal officer, board member, agent, or employee and shall

1 submit a fee in an amount established by the department for
2 a new registry identification card before the new principal
3 officer, board member, agent, or employee begins working at the
4 nonprofit dispensary.

5 *d.* A nonprofit dispensary shall implement appropriate
6 security measures to deter and prevent unauthorized entrance
7 into areas containing marijuana and the theft of marijuana.

8 *e.* The operating documents of a nonprofit dispensary
9 shall include procedures for the oversight of the nonprofit
10 dispensary and procedures to ensure accurate recordkeeping.

11 *f.* A nonprofit dispensary is prohibited from acquiring,
12 possessing, cultivating, manufacturing, delivering,
13 transferring, transporting, supplying, or dispensing marijuana
14 for any purpose except to assist registered qualifying patients
15 with the medical use of marijuana directly or through the
16 qualifying patients' other primary caregivers.

17 *g.* All principal officers and board members of a nonprofit
18 dispensary shall be residents of the state of Iowa.

19 *h.* All cultivation of marijuana shall take place in an
20 enclosed, locked facility.

21 *i.* A nonprofit dispensary shall not be located within
22 five hundred feet of the property line of a public or private
23 school.

24 8. A nonprofit dispensary or a principal officer, board
25 member, agent, or employee of a nonprofit dispensary shall not
26 dispense more than two and one-half ounces of usable marijuana
27 to a qualifying patient or to a primary caregiver on behalf of
28 a qualifying patient during a fifteen-day period.

29 9. *a.* A nonprofit dispensary shall not be subject to
30 prosecution, search, seizure, or penalty, or be denied any
31 right or privilege, including but not limited to a civil
32 penalty or disciplinary action by a business, occupational, or
33 licensing board or entity, solely for acting in accordance with
34 this chapter to provide usable marijuana or to otherwise assist
35 registered qualifying patients connected with the nonprofit

1 dispensary with the medical use of marijuana.

2 *b.* A principal officer, board member, agent, or employee
3 of a registered nonprofit dispensary shall not be subject
4 to arrest, prosecution, search, seizure, or penalty in any
5 manner or denied any right or privilege, including but not
6 limited to a civil penalty or disciplinary action by a court or
7 occupational or professional licensing board or entity, solely
8 for acting in accordance with this chapter and department rules
9 to acquire, possess, cultivate, manufacture, deliver, transfer,
10 transport, supply, or dispense marijuana or related supplies
11 and educational materials to registered qualifying patients,
12 to registered primary caregivers on behalf of registered
13 qualifying patients, or to other nonprofit dispensaries.

14 10. *a.* A nonprofit dispensary shall not possess more
15 than six live marijuana plants for each registered qualifying
16 patient who has designated the nonprofit dispensary as a
17 primary caregiver and has designated that the nonprofit
18 dispensary will be permitted to cultivate marijuana for the
19 registered qualifying patient's medical use.

20 *b.* A principal officer, board member, employee, or agent
21 of a nonprofit dispensary shall not dispense, deliver,
22 or otherwise transfer marijuana to a person other than a
23 qualifying patient who has designated the nonprofit dispensary
24 as a primary caregiver.

25 *c.* The department shall immediately revoke the registry
26 identification card of a principal officer, board member,
27 employee, or agent of a nonprofit dispensary who is found to
28 be in violation of paragraph "b", and such a person shall be
29 disqualified from serving as a principal officer, board member,
30 agent, or employee of a nonprofit dispensary.

31 *d.* Except as otherwise provided, a person who has been
32 convicted of an offense that was classified as a felony in
33 the jurisdiction where the person was convicted shall not be
34 eligible to be a principal officer, board member, agent, or
35 employee of a nonprofit dispensary.

1 (1) A person who is a principal officer, board member,
2 agent, or employee of a nonprofit dispensary in violation of
3 this paragraph "d" is subject to a civil penalty of up to one
4 thousand dollars.

5 (2) A person who is a principal officer, board member,
6 agent, or employee of a nonprofit dispensary in violation
7 of this paragraph "d" and who, at the time of the violation,
8 has been previously found to have been in violation of this
9 paragraph "d" commits a class "D" felony.

10 e. A nonprofit dispensary shall not acquire usable marijuana
11 or mature marijuana plants except through the cultivation of
12 marijuana by that nonprofit dispensary.

13 Sec. 6. NEW SECTION. 124D.5 Departmental rules.

14 1. Not later than one hundred twenty days after the
15 effective date of this Act, the department shall adopt rules to
16 carry out the purposes of this chapter.

17 2. Not later than one hundred twenty days after the
18 effective date of this Act, the department shall adopt
19 rules that govern the manner in which the department shall
20 consider petitions from the public to add medical conditions
21 or treatments to the list of debilitating medical conditions
22 set forth in section 124D.2, subsection 2. In considering
23 such petitions, the department shall include public notice
24 of, and an opportunity to comment in, a public hearing upon
25 such petitions. The department shall, after hearing, approve
26 or deny such petitions within one hundred eighty days of
27 their submission. The approval or denial of such a petition
28 constitutes final agency action, subject to judicial review.

29 3. Not later than one hundred twenty days after the
30 effective date of this Act, the department shall adopt rules
31 governing the manner in which it considers applications for and
32 renewals of registry identification cards. The department's
33 rules must establish application and renewal fees that generate
34 revenues sufficient to offset all expenses of implementing
35 and administering this chapter. The department may establish

1 a sliding scale of application and renewal fees based upon
2 a qualifying patient's income. The department may accept
3 donations from private sources to reduce application and
4 renewal fees.

5 **Sec. 7. NEW SECTION. 124D.6 Registry identification cards**
6 **— application — fee — penalty.**

7 1. The department shall issue a registry identification
8 card to a qualifying patient who submits an application
9 containing all of the following:

10 a. A written certification.

11 b. An application or renewal fee.

12 c. The name, address, and date of birth of the qualifying
13 patient except that if the applicant is homeless, no address
14 is required.

15 d. The name, address, and telephone number of the qualifying
16 patient's physician.

17 e. The name, address, and date of birth of each primary
18 caregiver, if any, of the qualifying patient. A qualifying
19 patient may designate only one primary caregiver unless
20 the qualifying patient is under eighteen years of age and
21 requires a parent to serve as a primary caregiver or the
22 qualifying patient designates a nonprofit dispensary to
23 cultivate marijuana for the qualifying patient's medical use
24 and the qualifying patient requests the assistance of a second
25 caregiver to assist with the qualifying patient's medical use.

26 f. If the qualifying patient designates one or more primary
27 caregivers, a designation as to who will be allowed under state
28 law to cultivate marijuana plants for the qualifying patient's
29 medical use. Only one person may be allowed to cultivate
30 marijuana plants for a qualifying patient.

31 2. The department shall not issue a registry identification
32 card to a qualifying patient who is under the age of eighteen
33 unless all of the following requirements are met:

34 a. The qualifying patient's physician has explained the
35 potential risks and benefits of the medical use of marijuana

1 to the qualifying patient and to a parent, guardian, or legal
2 custodian of the qualifying patient.

3 *b.* The parent, guardian, or person having legal custody
4 consents in writing to all of the following:

5 (1) Allowing the qualifying patient's medical use of
6 marijuana.

7 (2) Serving as the qualifying patient's primary caregiver.

8 (3) Controlling the acquisition of the marijuana, the
9 dosage, and the frequency of the medical use of marijuana by
10 the qualifying patient.

11 3. The department shall verify the information contained
12 in an application or renewal application submitted pursuant
13 to this section, and shall approve or deny an application
14 or renewal application within thirty days of receiving the
15 application or renewal application. The department may deny
16 an application or a renewal application only if the applicant
17 fails to provide the information required pursuant to this
18 section, or the department determines that the information
19 provided was falsified. Rejection of an application or a
20 renewal application is considered a final agency action subject
21 to judicial review pursuant to chapter 17A.

22 4. The department shall issue a registry identification
23 card to the primary caregiver, if any, who is named in
24 a qualifying patient's approved application or renewal
25 application, up to a maximum of one primary caregiver per
26 qualifying patient, provided the primary caregiver meets the
27 requirements of section 124D.2, subsection 10.

28 5. The department shall issue a registry identification
29 card to a qualifying patient and to the primary caregiver
30 within five days of approving an application or a renewal
31 application, which shall expire one year after the date of
32 issuance. A registry identification card shall contain all of
33 the following:

34 *a.* The name, address, and date of birth of the qualifying
35 patient.

- 1 *b.* The name, address, and date of birth of the primary
2 caregiver, if any, of the qualifying patient.
- 3 *c.* The date of issuance and expiration date of the registry
4 identification card.
- 5 *d.* A random identification number.
- 6 *e.* A photograph, if the department requires a photograph.
- 7 *f.* A clear designation indicating whether the cardholder
8 shall be allowed under law to cultivate marijuana plants for
9 the qualifying patient's medical use, to be determined based
10 upon the qualifying patient's preference.
- 11 6. *a.* A registered qualifying patient shall notify the
12 department of any change in the registered qualifying patient's
13 name, address, or primary caregiver, preference regarding who
14 may cultivate marijuana for the registered qualifying patient,
15 or if the registered qualifying patient ceases to have a
16 debilitating medical condition, within ten days of such change.
- 17 *b.* A registered qualifying patient who fails to notify the
18 department of any of the changes in paragraph "a" is subject
19 to a civil penalty of up to one hundred fifty dollars. If
20 the registered qualifying patient's certifying physician
21 notifies the department in writing that the registered
22 qualifying patient no longer suffers from a debilitating
23 medical condition, the registered qualifying patient's registry
24 identification card shall become void upon notification by the
25 department to the qualifying patient.
- 26 *c.* A registered primary caregiver shall notify the
27 department of any change in the registered primary caregiver's
28 name or address within ten days of such change. A registered
29 primary caregiver who fails to notify the department of such
30 change is subject to a civil penalty of up to one hundred fifty
31 dollars.
- 32 *d.* When a registered qualifying patient or registered
33 primary caregiver notifies the department of any changes
34 listed in this subsection and submits a fee of ten dollars,
35 the department shall issue the cardholder a new registry

1 identification card within ten days of receiving the updated
2 information.

3 *e.* When a registered qualifying patient changes the
4 registered qualifying patient's registered primary caregiver,
5 the department shall notify the primary caregiver within
6 ten days. The registered primary caregiver's protections
7 as provided in this chapter shall expire ten days after
8 notification by the department.

9 *f.* If a cardholder loses the cardholder's registry
10 identification card, the cardholder shall notify the department
11 and submit a fee of ten dollars within ten days of losing the
12 card. Within five days after such notification, the department
13 shall issue a new registry identification card with a new
14 random identification number to the cardholder.

15 7. Possession of, or application for, a registry
16 identification card shall not constitute probable cause or
17 reasonable suspicion and shall not be used to support the
18 search of the person or property of the person possessing or
19 applying for the registry identification card. The possession
20 of or application for a registry identification card does not
21 prevent the issuance of a warrant if probable cause exists on
22 other grounds.

23 8. The following confidentiality rules shall apply:

24 *a.* Applications and supporting information submitted by
25 a qualifying patient, including information regarding the
26 qualifying patient's primary caregiver and physician, are
27 confidential.

28 *b.* Applications and supporting information submitted by a
29 primary caregiver operating in compliance with this chapter,
30 including the physical address of a nonprofit dispensary, are
31 confidential.

32 *c.* The department shall maintain a confidential list
33 of the persons to whom the department has issued registry
34 identification cards. Individual names and other identifying
35 information on the list shall be confidential and not subject

1 to disclosure, except to authorized employees of the department
2 as necessary to perform official duties of the department.

3 *d.* The department shall verify to law enforcement personnel
4 whether a registry identification card is valid without
5 disclosing more information than is reasonably necessary to
6 verify the authenticity of the registry identification card.

7 *e.* (1) A person, including an employee or official of the
8 department or another state agency or local government, who
9 breaches the confidentiality of information obtained pursuant
10 to this chapter commits a serious misdemeanor punishable by
11 imprisonment of up to one hundred days and a fine of up to one
12 thousand dollars.

13 (2) Notwithstanding this paragraph "e", department employees
14 may notify law enforcement about falsified or fraudulent
15 information submitted to the department, if the employee who
16 suspects that falsified or fraudulent information has been
17 submitted confers with the employee's supervisor and the
18 employee and the employee's supervisor agree that circumstances
19 exist that warrant reporting.

20 9. A cardholder who sells marijuana to a person who is not
21 allowed to possess marijuana for medical purposes under this
22 chapter shall have the cardholder's registry identification
23 card revoked and is subject to any other penalties for the
24 sale of marijuana. The department shall revoke the registry
25 identification card of any cardholder who violates this chapter
26 and the cardholder is subject to any other penalties for the
27 violation.

28 10. The department shall submit an annual report to
29 the general assembly by January 15 of each year that does
30 not disclose any identifying information about cardholders
31 or physicians, but does contain, at a minimum, all of the
32 following information:

33 *a.* The number of applications and renewal applications
34 submitted for registry identification cards.

35 *b.* The number of registered qualifying patients and

1 registered primary caregivers in each county.

2 *c.* The nature of the debilitating medical conditions of the
3 qualifying patients.

4 *d.* The number of registry identification cards revoked.

5 *e.* The number of physicians providing written certifications
6 for qualifying patients.

7 *f.* The number of registered nonprofit dispensaries.

8 *g.* The number of principal officers, board members,
9 employees, and agents of nonprofit dispensaries.

10 11. The application for a qualifying patient's registry
11 identification card shall include a question on whether the
12 patient would like the department to notify the patient about
13 any clinical studies regarding marijuana's risks or efficacy
14 that seek human subjects.

15 Sec. 8. NEW SECTION. 124D.7 **Scope of chapter.**

16 1. This chapter does not permit any person to do any of the
17 following:

18 *a.* Undertake any task under the influence of marijuana,
19 when doing so would constitute negligence or professional
20 malpractice.

21 *b.* Possess marijuana, or otherwise engage in the medical use
22 of marijuana, in any of the following places:

23 (1) In a school bus.

24 (2) On the grounds of any preschool or primary or secondary
25 school.

26 (3) In any correctional facility.

27 *c.* Smoke marijuana in any of the following:

28 (1) Any form of public transportation.

29 (2) Any public place.

30 *d.* Operate, navigate, or be in actual physical control
31 of any motor vehicle, aircraft, or motorboat while under the
32 influence of marijuana.

33 *e.* Use marijuana if that person does not have a debilitating
34 medical condition.

35 2. Nothing in this chapter shall be construed to require any

1 of the following:

2 *a.* A government medical assistance program or private health
3 insurer to reimburse a person for costs associated with the
4 medical use of marijuana.

5 *b.* An employer to accommodate the ingestion of marijuana in
6 any workplace or any employee working while under the influence
7 of marijuana.

8 3. Fraudulent representation to a law enforcement official
9 of any fact or circumstance relating to the medical use
10 of marijuana to avoid arrest or prosecution is a simple
11 misdemeanor, punishable by a fine of five hundred dollars,
12 in addition to any other penalties that may apply for making
13 a false statement or for the use of marijuana other than use
14 undertaken pursuant to this chapter.

15 Sec. 9. NEW SECTION. 124D.8 **Affirmative defenses —**
16 **dismissal.**

17 1. Except as provided in section 124D.7, a qualifying
18 patient and a qualifying patient's primary caregiver, other
19 than a nonprofit dispensary, may assert the medical purpose for
20 using marijuana as a defense to any prosecution of an offense
21 involving marijuana intended for the patient's medical use, and
22 this defense shall be presumed valid where the evidence shows
23 all of the following:

24 *a.* A physician has stated that, in the physician's
25 professional opinion, after having completed a full assessment
26 of the patient's medical history and current medical
27 condition made in the course of a bona fide physician-patient
28 relationship, the qualifying patient is likely to receive
29 therapeutic or palliative benefit from the medical use of
30 marijuana to treat or alleviate the qualifying patient's
31 debilitating medical condition or symptoms associated with the
32 qualifying patient's debilitating medical condition.

33 *b.* The qualifying patient and the qualifying patient's
34 primary caregiver, if any, were collectively in possession of
35 a quantity of marijuana that was not more than was reasonably

1 necessary to ensure the uninterrupted availability of marijuana
2 for the purpose of treating or alleviating the qualifying
3 patient's debilitating medical condition or symptoms associated
4 with the qualifying patient's debilitating medical condition.

5 *c.* The qualifying patient and the qualifying patient's
6 primary caregiver were engaged in the acquisition, possession,
7 cultivation, manufacture, use, delivery, transfer, or
8 transportation of marijuana or paraphernalia relating to the
9 administration of marijuana solely to treat or alleviate the
10 qualifying patient's debilitating medical condition or symptoms
11 associated with the qualifying patient's debilitating medical
12 condition.

13 2. A person may assert the medical purpose for using
14 marijuana in a motion to dismiss and the charges shall be
15 dismissed following an evidentiary hearing where the person
16 shows all of the elements listed in subsection 1.

17 3. If a qualifying patient or a patient's primary caregiver
18 demonstrates the qualifying patient's medical purpose for using
19 marijuana pursuant to this section, the qualifying patient and
20 the patient's primary caregiver shall not be subject to any of
21 the following for the qualifying patient's use of marijuana for
22 medical purposes:

23 *a.* Disciplinary action by a business or occupational or
24 professional licensing board or bureau.

25 *b.* Forfeiture of any interest in or right to nonmarijuana,
26 licit property.

27 Sec. 10. NEW SECTION. 124D.9 **Enforcement.**

28 1. If the department fails to adopt rules to implement the
29 requirements of this chapter within one hundred twenty days
30 of the effective date of this Act, a qualifying patient may
31 commence an action in district court to compel the department
32 to perform the department's duties pursuant to this chapter.

33 2. If the department fails to issue a valid registry
34 identification card or a registration certificate in response
35 to a valid application or renewal application submitted

1 pursuant to this chapter within forty-five days of its
2 submission, the registry identification card or registration
3 certificate is deemed granted, and a copy of the registry
4 identification card application or renewal application is
5 deemed a valid registry identification card.

6 3. If at any time after January 1, 2013, the department
7 is not accepting applications pursuant to this chapter,
8 including if it has not promulgated rules allowing qualifying
9 patients to submit applications, a notarized statement by a
10 qualifying patient containing the information required in
11 an application, pursuant to section 124D.6, together with
12 a written certification, shall be deemed a valid registry
13 identification card.

14 Sec. 11. Section 453B.6, Code 2011, is amended by adding the
15 following new unnumbered paragraph:

16 NEW UNNUMBERED PARAGRAPH. A person who is in possession
17 of marijuana for medical purposes in accordance with chapter
18 124D is in lawful possession of a taxable substance and is not
19 subject to the requirements of this chapter.

20 EXPLANATION

21 This bill establishes new Code chapter 124D, the medical
22 marijuana Act, relating to the possession and use of marijuana
23 for therapeutic purposes, provides for the creation of
24 nonprofit dispensaries, and provides for civil and criminal
25 penalties and fees.

26 The bill provides that a qualifying patient who has been
27 issued and possesses a registry identification card shall not
28 be subject to arrest, prosecution, or civil penalty, or denied
29 any right or privilege, for the qualifying patient's medical
30 use of marijuana pursuant to the provisions of the bill.

31 The bill defines a qualifying patient as a person who has
32 been diagnosed by a physician with a debilitating medical
33 condition defined as cancer, glaucoma, positive status for
34 human immunodeficiency virus, acquired immune deficiency
35 syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's

1 disease, agitation of Alzheimer's disease, nail patella,
2 a chronic or debilitating disease or medical condition or
3 its treatment that produces intractable pain, a chronic or
4 debilitating medical condition that produces one or more of
5 the following: cachexia or wasting syndrome, severe nausea,
6 certain seizures, or certain muscle spasms, or any other
7 medical condition or its treatment approved by the department
8 of public health (department). A primary caregiver is defined
9 as a person, 21 or older, who has agreed to assist with a
10 qualifying patient's medical use of marijuana who has never
11 been convicted of a felony drug offense. A primary caregiver
12 also includes a nonprofit dispensary. A physician is defined
13 as a physician or surgeon or osteopathic physician or surgeon
14 licensed under Code chapter 148.

15 The bill provides for the creation of nonprofit
16 dispensaries. The bill defines a nonprofit dispensary as
17 a not-for-profit organization registered by the department
18 that acquires, possesses, cultivates, manufactures, delivers,
19 transfers, transports, sells, supplies, or dispenses marijuana
20 or related supplies and educational materials to qualifying
21 patients and primary caregivers who possess a valid registry
22 identification card. The bill provides specific guidelines for
23 regulation of nonprofit dispensaries and principal officers,
24 board members, employees, or agents of a nonprofit dispensary
25 by the department. A person who has been convicted of a felony
26 offense shall not be eligible to be a principal officer, board
27 member, agent, or employee of a nonprofit dispensary, unless
28 otherwise permitted by the department. A first violation
29 of this provision is punishable by a civil penalty of up to
30 \$1,000. A subsequent violation is a class "D" felony.

31 The bill provides that the department shall adopt rules
32 for implementing the bill including rules relating to the
33 consideration of petitions from the public to add additional
34 debilitating medical conditions to the list of debilitating
35 medical conditions specified in the bill, rules relating

1 to applications and renewal applications for registry
2 identification cards issued to qualifying patients and primary
3 caregivers, and rules relating to registration certificates for
4 nonprofit dispensaries. The department shall establish fees
5 which shall meet certain requirements.

6 The bill provides that the department shall issue a
7 registry identification card to a qualifying patient who
8 submits certain specified information to the department. The
9 department shall not issue a registry identification card to
10 a qualifying patient who is under the age of 18 unless the
11 qualifying patient's physician has explained the potential
12 risks and benefits of the medical use of marijuana to the
13 qualifying patient and to the qualifying patient's parent,
14 guardian, or legal representative and such persons provide
15 the appropriate consent. The department shall also issue a
16 registry identification card to each primary caregiver named
17 in a qualifying patient's approved application for a registry
18 identification card, up to a maximum of one primary caregiver
19 per qualifying patient. The bill places restrictions on the
20 amount of marijuana that may be possessed by a qualifying
21 patient or a primary caregiver and on the persons authorized
22 to cultivate marijuana for a qualifying patient. The bill
23 requires the department to submit an annual report to the
24 general assembly by January 15 of each year concerning
25 information related to registry identification cards.

26 The bill provides that a registered qualifying patient or
27 a registered primary caregiver who loses their registration
28 identification card or who makes changes to certain information
29 relevant to their registration identification card shall
30 notify the department. A registered qualifying patient or a
31 registered primary caregiver who fails to notify the department
32 of any changes in information relevant to the registration
33 identification card is subject to a civil penalty of up to
34 \$150.

35 The bill provides that applications and supporting

1 information submitted by a qualifying patient, primary
2 caregiver, physician, nonprofit dispensary, or board member,
3 employee, or agent of a nonprofit dispensary, are confidential.
4 The bill also provides that a person, including an employee or
5 official of the department or another state or local agency,
6 who disseminates information received in connection with an
7 application for a registry identification card pursuant to the
8 bill, is guilty of a serious misdemeanor and is subject to
9 confinement in jail for up to 100 days and a fine of \$1,000.

10 The bill prohibits the possession and use of medical
11 marijuana in certain places and during certain activities.

12 The bill provides that any fraudulent representation to a law
13 enforcement official relating to the use of medical marijuana
14 is a simple misdemeanor, punishable by a fine of up to \$500.

15 The bill amends Code section 124.401, relating to prohibited
16 acts involving controlled substances, to provide that it is
17 lawful for a person to knowingly or intentionally possess
18 marijuana if the possession is in accordance with the
19 provisions of the bill. The bill also amends Code section
20 453B.6, relating to tax stamps for controlled substances, to
21 specify that possession in accordance with the provisions of
22 the bill is lawful possession and a tax stamp is not required.